

SENATE BILL 766

Unofficial Copy
E3

2004 Regular Session
4r2204
CF 4r1202

By: **Senator Giannetti**

Introduced and read first time: February 12, 2004

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Juvenile Services - Enhancement of Programs**

3 FOR the purpose of establishing the Department of Juvenile Services Education
4 Department; requiring each facility established and operated by the
5 Department of Juvenile Services to have an education center; requiring each
6 education center to provide year-round schooling; providing that each child in
7 the custody of the Department receive appropriate educational services;
8 providing that the Superintendent and Managing Director of Education in the
9 Department is responsible for the education of every child in the custody of the
10 Department; establishing the Department of Juvenile Services Board of
11 Education; providing for the appointment, terms, and removal of members of the
12 Board of Education; providing for the duties and responsibilities of the Board of
13 Education; requiring that each child in the custody of the Department be
14 assessed by the Education Department to determine the educational needs of
15 the child; requiring the Education Department to prepare a personal education
16 plan for each child; providing that the Education Department is responsible for
17 preparing, maintaining, and retaining the academic records for each child;
18 requiring the Board of Education to hire teachers and other school professional
19 staff subject to certain certification and requirements; requiring the Board of
20 Education to appoint all principals, teachers, and other certificated and
21 noncertificated personnel under certain circumstances; requiring the
22 Department to keep certain records; requiring a certain financially responsible
23 county to reimburse the Education Department a certain amount for each child
24 in the custody of the Department under certain circumstances; requiring the
25 State Board of Education to reimburse the Department for certain children
26 under certain circumstances; requiring the Department to submit an annual
27 report to the State Superintendent of Schools, the Governor, and the General
28 Assembly on the educational outcomes of each child in the custody of the
29 Department; requiring the State Superintendent of Schools to adopt certain
30 regulations; defining certain terms; and generally relating to establishing the
31 Department of Juvenile Services Education Department.

32 BY adding to

33 Article 83C - Juvenile Services

34 Section 5-101 through 5-112, inclusive, to be under the new title "Title 5.

1 Education Department"
2 Annotated Code of Maryland
3 (2003 Replacement Volume)

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
5 MARYLAND, That the Laws of Maryland read as follows:

6 **Article 83C - Juvenile Services**

7 TITLE 5. EDUCATION DEPARTMENT.

8 5-101.

9 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

10 (B) "BOARD" MEANS THE DEPARTMENT OF JUVENILE SERVICES BOARD OF
11 EDUCATION.

12 (C) "EDUCATION DEPARTMENT" MEANS THE DEPARTMENT OF JUVENILE
13 SERVICES EDUCATION DEPARTMENT.

14 (D) "STATE BOARD" MEANS THE STATE BOARD OF EDUCATION.

15 (E) "STATE SUPERINTENDENT" MEANS THE STATE SUPERINTENDENT OF
16 SCHOOLS.

17 (F) "SUPERINTENDENT" MEANS THE SUPERINTENDENT AND MANAGING
18 DIRECTOR OF EDUCATION IN THE DEPARTMENT OF JUVENILE SERVICES.

19 5-102.

20 (A) THERE IS AN EDUCATION DEPARTMENT IN THE DEPARTMENT.

21 (B) (1) EACH FACILITY ESTABLISHED AND OPERATED BY THE DEPARTMENT
22 UNDER § 2-117 OF THIS ARTICLE SHALL HAVE AN EDUCATION CENTER WITHIN THE
23 FACILITY.

24 (2) EACH EDUCATION CENTER SHALL PROVIDE YEAR-ROUND
25 SCHOOLING.

26 (C) EACH CHILD UNDER THE JURISDICTION OF THE DEPARTMENT SHALL
27 RECEIVE APPROPRIATE EDUCATIONAL SERVICES PROVIDED BY THE EDUCATION
28 DEPARTMENT.

29 (D) THE SUPERINTENDENT SHALL BE RESPONSIBLE FOR THE EDUCATION OF
30 EVERY CHILD UNDER THE JURISDICTION OF THE DEPARTMENT.

31 5-103.

32 (A) THERE IS A DEPARTMENT OF JUVENILE SERVICES BOARD OF EDUCATION.

1 (B) THE BOARD CONSISTS OF FIVE VOTING MEMBERS JOINTLY APPOINTED BY
2 THE GOVERNOR AND THE SECRETARY FROM A LIST OF QUALIFIED INDIVIDUALS
3 SUBMITTED TO THE GOVERNOR AND THE SECRETARY BY THE STATE BOARD.

4 (C) (1) EACH MEMBER SERVES FOR A TERM OF 3 YEARS BEGINNING JULY 1
5 AFTER THE APPOINTMENT AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

6 (2) THE GOVERNOR AND THE SECRETARY SHALL APPOINT A NEW
7 MEMBER TO FILL ANY VACANCY FOR THE REMAINDER OF THAT TERM AND UNTIL A
8 SUCCESSOR IS APPOINTED AND QUALIFIES.

9 (3) UNLESS OTHERWISE DISQUALIFIED UNDER THIS SECTION, A
10 MEMBER OF THE BOARD IS ELIGIBLE FOR REAPPOINTMENT. HOWEVER, AN
11 INDIVIDUAL MAY NOT SERVE FOR MORE THAN TWO CONSECUTIVE TERMS.

12 (D) (1) WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY MAY
13 REMOVE ANY MEMBER OF THE BOARD APPOINTED UNDER THIS SECTION FOR:

14 (I) IMMORALITY;

15 (II) MISCONDUCT IN OFFICE;

16 (III) INCOMPETENCY;

17 (IV) WILLFUL NEGLECT OF DUTY; OR

18 (V) FAILURE TO ATTEND, WITHOUT GOOD CAUSE, AT LEAST HALF
19 OF THE SCHEDULED MEETINGS OF THE BOARD IN ANY 1 CALENDAR YEAR.

20 (2) BEFORE REMOVING A MEMBER, THE SECRETARY SHALL SEND THE
21 MEMBER A COPY OF THE CHARGES AGAINST THE MEMBER AND GIVE THE MEMBER
22 AN OPPORTUNITY WITHIN 10 DAYS TO REQUEST A HEARING.

23 (3) IF A MEMBER REQUESTS A HEARING WITHIN THE 10-DAY PERIOD:

24 (I) THE SECRETARY SHALL PROMPTLY HOLD A HEARING, BUT A
25 HEARING MAY NOT BE SET WITHIN 10 DAYS AFTER THE SECRETARY SENDS THE
26 MEMBER A NOTICE OF THE HEARING; AND

27 (II) THE MEMBER SHALL HAVE AN OPPORTUNITY TO BE HEARD
28 PUBLICLY BEFORE THE SECRETARY IN THE MEMBER'S OWN DEFENSE, IN PERSON,
29 OR BY COUNSEL.

30 (4) IF A MEMBER WHO IS REMOVED SO REQUESTS, THE SECRETARY
31 SHALL FILE WITH THE CLERK OF THE CIRCUIT COURT FOR THE COUNTY FROM
32 WHICH THE MEMBER WAS APPOINTED:

33 (I) A COMPLETE STATEMENT OF ALL CHARGES MADE AGAINST
34 THE MEMBER;

35 (II) THE FINDINGS OF THE SECRETARY; AND

1 (III) A COMPLETE RECORD OF THE PROCEEDINGS.

2 (E) EACH MEMBER OF THE BOARD SERVES WITHOUT COMPENSATION.

3 (F) (1) ON APPOINTMENT OF THE BOARD, THE GOVERNOR AND THE
4 SECRETARY SHALL JOINTLY SELECT ONE OF THE VOTING MEMBERS TO SERVE AS
5 THE CHAIRMAN OF THE BOARD WHO SHALL SERVE THROUGH JUNE 30, 2006.

6 (2) BEGINNING ON JULY 1, 2006, AND EVERY 2 YEARS THEREAFTER,
7 FROM AMONG ITS VOTING MEMBERS THE BOARD SHALL ELECT A CHAIRMAN.

8 (G) ANY ACTION BY THE BOARD SHALL REQUIRE:

9 (1) A QUORUM OF A MAJORITY OF THE VOTING MEMBERS THEN
10 SERVING; AND

11 (2) THE AFFIRMATIVE VOTE OF A MAJORITY OF THE VOTING MEMBERS
12 THEN SERVING.

13 5-104.

14 THE DEPARTMENT OF JUVENILE SERVICES BOARD OF EDUCATION SHALL:

15 (1) TO THE BEST OF ITS ABILITY, CARRY OUT THE APPLICABLE
16 PROVISIONS OF THIS TITLE, THE EDUCATION ARTICLE, AND THE BYLAWS, RULES,
17 REGULATIONS, AND POLICIES OF THE STATE BOARD;

18 (2) MAINTAIN THROUGHOUT THE EDUCATION DEPARTMENT A
19 REASONABLY UNIFORM SYSTEM OF EDUCATION CENTERS THAT ARE DESIGNED TO
20 PROVIDE QUALITY EDUCATION AND EQUAL EDUCATIONAL OPPORTUNITY FOR
21 CHILDREN IN THE CUSTODY OF THE DEPARTMENT;

22 (3) SUBJECT TO THIS TITLE, THE EDUCATION ARTICLE, AND THE
23 APPLICABLE BYLAWS, RULES, AND REGULATIONS OF THE STATE BOARD,
24 DETERMINE, WITH THE ADVICE OF THE SUPERINTENDENT, THE EDUCATIONAL
25 POLICIES OF THE EDUCATION DEPARTMENT; AND

26 (4) ADOPT, CODIFY, AND MAKE AVAILABLE TO THE PUBLIC BYLAWS,
27 RULES, AND REGULATIONS CONSISTENT WITH STATE LAW, FOR THE CONDUCT AND
28 MANAGEMENT OF THE EDUCATION CENTERS.

29 5-105.

30 SUBJECT TO THE APPLICABLE PROVISIONS OF THE EDUCATION ARTICLE AND
31 THE BYLAWS, BASIC POLICIES, AND GUIDELINES ESTABLISHED BY THE STATE
32 BOARD, THE BOARD, ON WRITTEN RECOMMENDATION OF THE SUPERINTENDENT,
33 SHALL:

34 (1) ESTABLISH CURRICULUM GUIDES AND COURSES OF STUDY FOR THE
35 EDUCATION CENTERS UNDER ITS JURISDICTION; AND

1 (2) SUPPLY PRINTED COPIES OF THESE MATERIALS TO ANY TEACHER
2 OR INTERESTED CITIZEN.

3 5-106.

4 (A) EACH CHILD IN THE CUSTODY OF THE DEPARTMENT SHALL BE ASSESSED
5 AS SOON AS POSSIBLE BY THE EDUCATION DEPARTMENT TO DETERMINE THE
6 EDUCATIONAL NEEDS OF THE CHILD.

7 (B) AFTER AN ASSESSMENT HAS BEEN COMPLETED AS REQUIRED IN
8 SUBSECTION (A) OF THIS SECTION, THE EDUCATION DEPARTMENT SHALL PREPARE A
9 PERSONAL EDUCATION PLAN FOR THE CHILD.

10 5-107.

11 THE EDUCATION DEPARTMENT SHALL BE RESPONSIBLE FOR PREPARING,
12 MAINTAINING, AND RETAINING THE ACADEMIC RECORDS FOR EACH CHILD WHO IS
13 PLACED IN THE CUSTODY OF THE DEPARTMENT.

14 5-108.

15 (A) THE BOARD SHALL HIRE AND OTHERWISE UTILIZE TEACHERS AND OTHER
16 SCHOOL PROFESSIONAL STAFF WHO ARE SUBJECT TO THE SAME CERTIFICATION
17 AND QUALIFICATION REQUIREMENTS OF TITLE 6 OF THE EDUCATION ARTICLE.

18 (B) THE PROVISIONS OF TITLE 6 OF THE EDUCATION ARTICLE SHALL APPLY
19 TO THE PERSONNEL OF THE EDUCATION DEPARTMENT.

20 5-109.

21 ON THE WRITTEN RECOMMENDATION OF THE SUPERINTENDENT AND SUBJECT
22 TO THE PROVISIONS OF THE EDUCATION ARTICLE, THE BOARD SHALL:

23 (1) APPOINT ALL PRINCIPALS, TEACHERS, AND OTHER CERTIFICATED
24 AND NONCERTIFICATED PERSONNEL; AND

25 (2) SET THEIR SALARIES.

26 5-110.

27 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
28 INDICATED.

29 (2) "LOCAL CURRENT EXPENSE PER STUDENT" MEANS ALL
30 EXPENDITURES MADE BY A COUNTY FROM COUNTY APPROPRIATIONS, EXCEPT
31 STATE, FEDERAL, AND OTHER AID, FOR PUBLIC ELEMENTARY AND SECONDARY
32 EDUCATION IN THE PRIOR FISCAL YEAR, DIVIDED BY THE FULL-TIME EQUIVALENT
33 ENROLLMENT, AS DEFINED IN § 5-202(A) OF THE EDUCATION ARTICLE.

34 (3) "CHILD IN AN OUT-OF-HOME LIVING ARRANGEMENT" MEANS A
35 CHILD WHO IS IN THE CUSTODY OF THE DEPARTMENT.

1 (4) "FINANCIALLY RESPONSIBLE COUNTY" MEANS:

2 (I) THE COUNTY IN WHICH THE PARENT OR LEGAL GUARDIAN OF
3 A CHILD IN AN OUT-OF-HOME LIVING ARRANGEMENT RESIDES;

4 (II) IF THE PARENTS OF THE CHILD LIVE APART, THE COUNTY IN
5 WHICH THE PARENT WHO HAS BEEN AWARDED CUSTODY OF THE CHILD RESIDES; OR

6 (III) IF CUSTODY HAS NOT BEEN AWARDED, THE COUNTY IN WHICH
7 THE PARENT WITH WHOM THE CHILD LIVES WHEN NOT IN A FOSTER CARE HOME OR
8 RESIDENTIAL FACILITY RESIDES.

9 (B) A CHILD WHO IS PLACED IN AN OUT-OF-HOME LIVING ARRANGEMENT
10 WITH THE DEPARTMENT SHALL RECEIVE AN APPROPRIATE EDUCATION FROM THE
11 EDUCATION DEPARTMENT.

12 (C) (1) THE DEPARTMENT SHALL KEEP RECORDS CONCERNING:

13 (I) THE NUMBER OF CHILDREN IN THE CUSTODY OF THE
14 DEPARTMENT;

15 (II) THE FINANCIALLY RESPONSIBLE COUNTY FOR EACH CHILD;
16 AND

17 (III) THE NUMBER OF DAYS THAT EACH CHILD IS IN THE CUSTODY
18 OF THE DEPARTMENT.

19 (2) THE EDUCATION DEPARTMENT SHALL DETERMINE THE AMOUNT
20 EACH FINANCIALLY RESPONSIBLE COUNTY OWES THE EDUCATION DEPARTMENT
21 BASED ON THE LOCAL CURRENT EXPENSE PER STUDENT.

22 (3) THE FINANCIALLY RESPONSIBLE COUNTY SHALL REIMBURSE THE
23 EDUCATION DEPARTMENT FOR THE EDUCATION OF EACH CHILD FROM THE
24 FINANCIALLY RESPONSIBLE COUNTY BASED ON THE NUMBER OF CHILDREN IN THE
25 CUSTODY OF THE DEPARTMENT FROM THE PRIOR YEAR.

26 (D) (1) EACH YEAR THE EDUCATION DEPARTMENT SHALL NOTIFY THE
27 STATE SUPERINTENDENT OF THE NAME OF EACH CHILD UNDER THE JURISDICTION
28 OF THE DEPARTMENT RECEIVING EDUCATIONAL SERVICES FROM THE EDUCATION
29 DEPARTMENT AND MAKE A PRELIMINARY DETERMINATION OF THE FINANCIALLY
30 RESPONSIBLE COUNTY FOR EACH CHILD. THE DEPARTMENT SHALL SEND A COPY OF
31 THIS NOTICE TO THE FINANCIALLY RESPONSIBLE COUNTY AND SHALL SEND THE
32 NOTICE TO THE STATE SUPERINTENDENT.

33 (2) THE COUNTY WHICH WAS INITIALLY DETERMINED TO BE
34 FINANCIALLY RESPONSIBLE MAY APPEAL THAT DETERMINATION TO THE STATE
35 SUPERINTENDENT.

36 (3) THE STATE SUPERINTENDENT SHALL DECIDE ALL APPEALS WHICH
37 ARE MADE UNDER PARAGRAPH (2) OF THIS SUBSECTION AND MAKE A FINAL

1 DETERMINATION REGARDING THE FINANCIALLY RESPONSIBLE COUNTY FOR EACH
2 CHILD IN THE CUSTODY OF THE DEPARTMENT.

3 (4) EACH YEAR EACH COUNTY BOARD SHALL PROVIDE THE STATE
4 SUPERINTENDENT THE DATA NECESSARY TO COMPUTE THE LOCAL CURRENT
5 EXPENSE PER STUDENT UNDER THIS SECTION.

6 (5) IF A FINANCIALLY RESPONSIBLE COUNTY FAILS TO MAKE THE
7 REQUIRED PAYMENT TO THE EDUCATION DEPARTMENT, THE STATE
8 SUPERINTENDENT SHALL DEDUCT FROM THE NEXT PAYMENT OF STATE AID TO THE
9 FINANCIALLY RESPONSIBLE COUNTY AN AMOUNT EQUAL TO THE AMOUNT OWED
10 UNDER THIS PARAGRAPH AND SHALL PAY THOSE FUNDS TO THE EDUCATION
11 DEPARTMENT.

12 5-111.

13 EACH YEAR THE DEPARTMENT SHALL SUBMIT AN ANNUAL REPORT TO THE
14 STATE SUPERINTENDENT, THE GOVERNOR, AND THE GENERAL ASSEMBLY ON THE
15 EDUCATIONAL OUTCOMES OF EACH CHILD IN THE CUSTODY OF THE DEPARTMENT.

16 5-112.

17 THE STATE SUPERINTENDENT SHALL ADOPT REGULATIONS TO CARRY OUT
18 THIS TITLE.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 June 1, 2004.